

MEMORANDUM

Via Email Only

TO: The Honorable Phil Duncan, Chairman
Falls Church Economic Development Committee

FROM: Craig S. Cheney, Principal
KLNB Commercial Real Estate Services

DATE: March 21, 2022

RE: **The Byron Potential Special Exception Amendment**
513 W. Broad Street

Our company has been working with Mr. Simon Lee to lease his vacant commercial spaces at The Byron (Units 110A, 110B, 110C, and 130). We appeared at the June 24, 2021, Economic Development Committee (“EDC”) meeting, during which we asked the EDC for its thoughts on a potential amendment to The Byron’s approved Voluntary Concessions to allow additional flexibility in marketing The Byron’s vacant commercial spaces to prospective tenants. We appeared again at the August 26, 2021 EDC meeting, during which we proposed draft amended language for the Voluntary Concessions.

Following a constructive discussion at the August 26th meeting, EDC members suggested we return at a future date once we had met with The Byron Condo Association to discuss solutions to the parking challenges. Since that time, we met with the Condo Association and they have approved some solutions to present to the city for review and approval.

Attached again for your convenience is the draft amended language for the Voluntary Concessions that we forwarded in August of 2021. We have forwarded this draft language to Economic Development staff as well and understand we will be invited to appear before the EDC at its March 24, 2022 meeting.

As EDC members know, the Byron was one of the City’s first mixed-used redevelopments when it was approved in 2003. At the time of approval, which were the halcyon years of the American retail sector (and the final days before ecommerce’ meteoric rise), the City sought to limit certain retail service and office uses that, it was believed at the time, would inhibit creating a vibrant and

activated pedestrian-oriented environment. As reflected in The Byron's Voluntary Concessions, everything was centered on attracting traditional retail and restaurant uses.

With the benefit of hindsight nearly 20 years on however, the City's retail and restaurant landscape has changed significantly. Today's consumer looks nothing like the consumer of the early 2000s or even the consumer of a few years ago. There is now a shift in the marketplace towards retail services, and The Byron's existing prohibition on certain retail service uses (e.g., convenience stores, nail salons, etc.), as well as the placement of a limitation on the primary street frontage for retail service uses, has made leasing difficult. Additionally, the existing limitation on professional office/office uses to five years (with one administrative extension) does not provide sufficient predictability to prospective commercial tenants from an investment standpoint. We have also found leasing to be challenged by The Byron's unique parking and the retail space configuration.

The result of these factors has impeded our commercial success. Unit 110C, for example, was vacant for 19 months before it was leased, Unit 110B has been vacant for more than three years, and Unit 130 was vacant for 16 months before it was leased. As a result, The Byron's vacant spaces have underperformed from a city revenue perspective. Further, pedestrian activity on the sidewalks around The Byron suffered, and the property's highly visible commercial spaces were vacant and unappealing along the City's main commercial corridor, much longer than necessary.

Since we last appeared before the EDC, we have leased Unit 130 to Harvey's and Unit 110C to Acton Academy. While these leases portend well for a brighter future with these commercial spaces, the volatile nature of the retail and restaurant leasing suggests it may be prudent for the City to provide additional flexibility so that we can more effectively market the property and respond to opportunities in a way that does not unduly hamper our leasing efforts or put us at a competitive disadvantage relative to other projects. We believe it critical, therefore, to amend The Byron's Voluntary Concessions to introduce flexibility to recognize these marketplace changes.

The attached redlined conditions seek to:

- Expand the list of permitted uses to include convenience stores, nail salons, hair salons, and ABC stores. Such uses are generally permitted in the City's other retail centers/buildings, including in recently approved mixed-use redevelopments, and are no longer deemed as "undesirable" as the City may have once believed them to be 17 years ago (draft Condition 7);
- Expand the list of prohibited uses to align more closely with what the City now expects in more-recently accepted Voluntary Concessions (draft Condition 7);
- Remove the five-year limitation (with one five-year renewal) on leases for professional offices/office uses to encourage investment from professional office tenants (draft Condition 8);

- Require signage and pavement markings for commercial parking spaces in The Byron's courtyard area and parking garage to state that said spaces are reserved for commercial tenants (draft Condition 9);
- Eliminate the limitation on the percentage of primary street frontage that may be occupied by retail/service uses (former Condition 12); and
- Update the Voluntary Concessions to reflect Council's adoption of Resolution 2011-25 (draft condition 12).

We look forward to appearing before the EDC at its March 24th meeting. Following the meeting, we will continue to work with staff and return, as necessary to EDC prior to filing an amendment and beginning the formal legislative review process. We would expect the legislative review process to take several months and include public hearings before the Planning Commission and City Council.

Attachment

Cc: Mr. James B. Snyder, Director of Planning and Development Services
Ms. Becky Witsman, Economic Development Division Chief
Mr. Paul Stoddard, Planning Director
Mr. Gary H. Fuller, Principal Planner
Mr. John Boyle, Zoning Administrator
Mr. Simon Lee, Property Owner
Andrew A. Painter, Esq., Walsh Colucci

Attachments